IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.Rev.Pet.No. 193 of 2000

CRL.A.48/1998 OF SESSIONS COURT, KOZHIKODE,
CC.147/1996 OF JUDL.MAGISTRATE OF FIRST CLASS-II, THAMARASSERY

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REVISION PETITIONER/ APPELLANT/ACCUSED:

PARATHODY ABOO,
S/O. KUNHEETH,
POZHUTHANA,
WAYANAD DISTRICT.

BY ADV. SRI.P.K.RAMKUMAR.

RESPONDENT/ RESPONDENT/ COMPLAINANT:

STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR AT
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.C. SANTHOSH KUMAR.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 25/10/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY, J.

Crl.R.P.No.193 of 2000

Dated 25th October, 2007

ORDER

Revision petitioner was convicted and sentenced to undergo rigorous imprisonment for three months under Section 279 of the Indian Penal Code, rigorous imprisonment for three months under Section 337 IPC, rigorous imprisonment for six months under Section 338 IPC and also to undergo rigorous imprisonment for a period of two years under Section 304(A) IPC. The conviction and sentence imposed by the Magistrate's Court was confirmed by the Sessions Court also. Against the concurrent findings, this revision petition is filed. According to the evidence given by PWs 1 and 2, they were coming together with deceased on 8.1.1994 at 2.30 p.m., after their class in Government High School, Koduvallywhile. They were walking through the right hand side of the road. While they were in front of the compound wall of a house, a jeep came from the opposite side in a high speed. In order to save them, they attempted to climp on the granite boulders stacked on the side of the road. While so, the jeep dashed on them and they lost consciousness. Two girls died. PWs 6 and 8, eye witnesses, stated that the accident occurred due to the negligence of the jeep driver. PW6 deposed that the accident occurred in front of his

house and he stated that the jeep ran over the granite boulders on the side of the road and hit the girls. From the evidence of PWs 1, 2, 6, 7 and 8 it was found that the driver was driving the jeep in a high speed and because of his rash and negligent driving the accident occurred. PW8 identified the driver as the accused. PW10 doctor who examined the deceased, PWs, 1, 2 and 8 issued Exts.P5 to P9 certificates stating that the injuries could be caused due to motor accident and the deceased died while in hospital. It is corroborated by post-mortem certificate and evidence of PWs11 and 12. PW14 motor vehicle inspector issued Ext.P12 certificate holding that the accident was not due to any mechanical defect.

2. Two contentions were mainly raised by the revision petitioner. First is that he was not the driver. Except his own testimony there is no evidence for that. He was clearly identified by PW8, an eye witness. His further case that tyre of the jeep was burst cannot be accepted in view of the MVI's report. In the above circumstances, there is nothing for interference in the finding of conviction for the offences under sections 279, 337, 338 and 304(A) IPC. I note that the driving licence of the accused was suspended for a period of two years. I also note that the accident occurred in 1994. Taking into consideration of all these facts, sentence is to be

modified. Rigorous imprisonment for a period of two years imposed under section 304(A) IPC is reduced to rigorous imprisonment for six months. Sentence imposed under Sections 279, 337 and 338 of IPC are not interfered, but, the above sentences shall be run concurrently.

The revision petition is disposed of accordingly.

J.B.KOSHY
Judge

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